

TUCKER ELLIS LLP  
Su-Lyn Combs - SBN 209834  
su-lyn.combs@tuckerellis.com  
Joshua J. Wes - SBN 238541  
joshua.wes@tuckerellis.com  
Aggie B. Lee - SBN 228332  
aggie.lee@tuckerellis.com  
515 South Flower Street  
Forty-Second Floor  
Los Angeles, CA 90071  
Telephone: 213.430.3400  
Facsimile: 213.430.3409

Attorneys for Defendants  
JOHNSON & JOHNSON, and  
ETHICON, INC.

**UNITED STATES DISTRICT COURT  
CENTRAL DISTRICT OF CALIFORNIA**

FRIEDA SHAHBAZ, and  
CYRUS SHAHBAZ,

Plaintiffs,

v.

JOHNSON & JOHNSON, et al.

Defendants.

) Case No. 2:13-cv-07382-AB-SS

) **DEFENDANTS' NOTICE OF**  
) **MOTION TO STRIKE MAY 29, 2020**  
) **"SUPPLEMENTAL" REPORT OF DR.**  
) **JA-HONG KIM**

) *[Filed concurrently with Declaration of*  
) *Su-Lyn Combs, Memorandum of Points*  
) *and Authorities; and [Proposed] Order]*

) Date: July 17, 2020  
) Time: 10:00 a.m.  
) Ctrm: 7B

**TO ALL PARTIES AND TO THEIR ATTORNEYS OF RECORD:**

**PLEASE TAKE NOTICE** that on July 17, 2020 at 10:00 a.m., or as soon thereafter as the matter may be heard, in Courtroom 7B of the above-entitled court located at 350 West First Street, Los Angeles, CA 90012, Defendants Ethicon, Inc. and Johnson & Johnson (collectively, "Ethicon"), pursuant to Federal Rule of Civil Procedure 16, 26, and 37(c) and the Court's Order re Status Report, Doc. No. 26, will and hereby do move for the Court to strike Plaintiffs' May 29, 2020 "Supplemental" Report of Dr. Ja-Hong Kim, Doc. No. 36-1, filed concurrently with Plaintiffs' Response in Opposition to Defendants' Supplemental Motion for Summary Judgment, Doc. No.

36. In support of this motion, Ethicon states:

1. Plaintiffs' untimely "supplemental" Expert Report should be stricken, pursuant to Fed. R. Civ. P. 37(c), because it is prejudicial to Ethicon to permit Plaintiffs to provide additional, previously undisclosed opinions, tailored to respond to Ethicon's legal arguments at the summary judgment stage.

2. Dr. Kim's "supplemental" Expert Report is not proper supplementation under Fed. R. Civ. P. 26(e).

This Motion to Strike is based on this Notice and Motion, the accompanying Memorandum of Points and Authorities, the Declaration of Su-Lyn Combs and exhibits thereto, the pleadings and papers on file, and upon such other matters as may be presented to the Court at the time of hearing.

This motion is made following the conference of counsel pursuant to L.R. 7-3 which took place on June 9, 2020.

DATED: June 18, 2020

TUCKER ELLIS LLP

By: /s/ Su-Lyn Combs

Su-Lyn Combs  
Joshua J. Wes  
Aggie B. Lee

Attorneys for Defendants  
JOHNSON & JOHNSON, and  
ETHICON, INC.

**CERTIFICATE OF SERVICE***Frieda Shahbaz, et al. v. Johnson & Johnson, et al.*

I declare that I am a citizen of the United States and a resident of Los Angeles, California or employed in the County of Los Angeles, State of California. I am over the age of 18 and not a party to the within action. My business address is Tucker Ellis LLP, 515 South Flower Street, Forty-Second Floor, Los Angeles, California 90071-2223.

On **June 18, 2020**, I served the following: **DEFENDANTS' NOTICE OF MOTION TO STRIKE MAY 29, 2020 "SUPPLEMENTAL" REPORT OF DR. JA-HONG KIM** on the interested parties in this action by:

- (X) **ELECTRONICALLY VIA ECF:** the above-entitled document to be served electronically through the United States District Court, Central District ECF website, addressed to all parties appearing on the Court's ECF service list. A copy of the "Filing Receipt" page will be maintained with the original document in our office.
- ( ) **BY MAIL:** By placing a true copy thereof enclosed in a sealed envelope(s) addressed as above, and placing each for collection and mailing on the below indicated day following the ordinary business practices at Tucker Ellis LLP. I certify I am familiar with the ordinary business practices of my place of employment with regard to collection for mailing with the United States Postal Service. I am aware that on motion of the party served, service is presumed invalid if postal cancellation date or postage meter date is more than one day after date of deposit or mailing affidavit.
- (X) I declare that I am employed in the office of the Bar of this Court at whose direction the service was made.

Executed on **June 18, 2020**, at Los Angeles, California

/s/ Stella S. Villegas  
Stella S. Villegas